



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
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OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

September 09, 2004

Fitzpatrick, Cella, Harper & Scinto
30 Rockefeller Plaza
New York, New York 10112-3801

Dear Sir;

We regret to inform you that your refund request dated 05/17/04 for the amount of \$90.00, application number 10/810703 cannot be granted for the reason specified below.

- Refund based upon subsequent establishment of small entity status: A refund based on establishment of small entity status may be granted only if a written assertion of entitlement to small entity status under 37 CFR 1.27 and a request for refund of the excess amount are filed within three months of payment and of the fee (37 CFR 1.28). Three-month period for establishing small entity status and requesting a refund has expired.
- Refund of application filing or petition fee: Filing fees paid for an application that is entitled to a filing date and required petition fees are not fees paid by mistake or in excess. If an application is not entitled to a filing date and proceedings are terminated on the application, any filing fees (less the \$130 handling fee) will be refunded (37 CFR 1.53(e)(3)).
- Refund of overpayment: There was no overpayment made by applicant. All fees were calculated and assessed properly. ****See below****
- The payment for which the refund is requested has not been applied to the application. The payment check was returned to applicant for the following reason:
 - Not filled out properly. (See attached copy of notice.)
 - Not made payable in U.S. funds.
 - No explanation was given as to purpose.
 - Payment was previously received and applied by Office.
 - Check was returned by bank for insufficient funds.

****Any request for reconsideration or review of this decision must be by way of a petition filed within two months of this decision, which decision must set forth with particularity why a refund is due (see 37 CFR 1.181(b) and (f)).**



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After checking the case and recounting the claims, I find that we counted the claims correctly and therefore your Deposit Account was debited in the proper amount. You had 5 claims over the twenty allowed. $5 \times \$18.00 = \90.00

If there are any further questions, please contact Customer Service at (703) 308-1202.

Sincerely,

Eleanor F. Kurtz
Office of Initial Patent Examination